

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GATEWAYS TO CHANGE, INC.

v.

C.A. No. 05-120ML

KATHLEEN SPANGLER, in her capacity as
DIRECTOR OF THE RHODE ISLAND DEPARTMENT OF
MENTAL HEALTH, RETARDATION & HOSPITALS; and through
her THE RHODE ISLAND DEPARTMENT OF MENTAL HEALTH,
RETARDATION & HOSPITALS

ORDER

This matter is before the court on Defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Plaintiff, Gateways to Change, Inc, has brought an action against Kathleen Spangler in her capacity as Director of the Rhode Island Department of Mental Health, Retardation & Hospitals and, through her, the Rhode Island Department of Mental Health, Retardation & Hospitals ("MHRH") challenging the implementation of a Show Cause Notice issued by MHRH.

At oral argument on Defendants' motion, the parties advised the court that they are presently engaged in administrative hearings on the matters enumerated in the Show Cause Notice.

After hearing the arguments of counsel and reviewing the memoranda submitted by the parties, the court makes the following orders:

(1) Defendants' motion for summary judgement is granted as to Plaintiff's Due Process claim (count III of the complaint) and Takings' claim (count V of the complaint). Accordingly, these claims are dismissed with prejudice.

(2) By agreement of the parties, and with the court's consent, Plaintiff's Equal Protection

claim (count IV of the complaint) is dismissed without prejudice.

(3) The parties stipulate that:

(a) If Plaintiff elects to re-file the Equal Protection claim Plaintiff will refrain from doing so until after the administrative proceedings are concluded, and,

(b) Any statute of limitation with respect to the Equal Protection claim may be tolled pending the conclusion of the administrative proceedings.

SO ORDERED

Mary M. Lisi
United States District Judge
August __, 2005